

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 50 2017 CA 005938 XXXX MB AJ

JOHN F. DOWNS, MARGARET T. DOWNS,
ELIZABETH DOWNS, and DOROTHY DOWNS,

Plaintiffs,

v.

WILLIAM J. CHANDLER and RACHEL A.
CHANDLER,

Defendants.

v.

NORTH PALM BEACH PROPERTIES, INC.

Third-Party Defendant.

NOTICE OF FILING AFFIDAVIT OF KIM M. SCHWENCKE

Third-Party Defendant, NORTH PALM BEACH PROPERTIES, INC., hereby gives notice of filing the attached affidavit regarding Plaintiffs' Motion for Summary Judgment filed on or about May 17, 2018 in the above-captioned matter.

Respectfully submitted,

**WARD, DAMON, POSNER,
PHETERSON & BLEAU**
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/s/ Denise J. Bleau

By: _____
Denise J. Bleau, Esquire
Florida Bar No. 599514
Ana P. Moretto, Esquire
Florida Bar No. 126347

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 9, 2018, the foregoing was electronically filed with the Clerk of the Court by using the Florida Courts E-Portal System, that provides a true and correct copy of the foregoing to: Andrew J. Bauman, Esquire, Seth C. Behn, Esquire, and John W. Wallace, Esquire, of LEWIS, LONGMAN & WALKER, P.A., *Counsel for Plaintiffs*, 515 North Flagler Drive, Suite 1500, West Palm Beach, Florida 33401, and 245 Riverside Avenue, Suite 150, Jacksonville, Florida 32202 via e-mail to abaumann@llw-law.com; sbehn@llw-law.com; and jwallace@llw-law.com; **and** to Joshua S. Widlansky, Esquire, and Stephen J. Padula, Esquire, of PADULA BENNARDO LEVINE, LLP, *Counsel for Defendants*, 3837 NW Boca Raton Boulevard, Suite 200, Boca Raton, Florida 33431 via e-mail to JSW@PBL-Law.com and SJP@PBL-Law.com.

/s/ Denise J. Bleau

By: _____
Denise J. Bleau, Esquire
Florida Bar No. 599514
Ana P. Moretto, Esquire
Florida Bar No. 126347

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AFFIDAVIT OF KIM M. SCHWENCKE

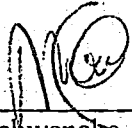
Before me, the undersigned authority, on this day personally appeared Kim M. Schwencke, who, being first duly sworn, upon his oath states:

1. My legal name is Kim M. Schwencke. I am over 21 years old and am otherwise competent to testify to the matters and fact contained in this Affidavits which is of my own personal knowledge, except where stated to be on information and belief, and where so stated I believe them to be true.
2. My brother, Kerry R. Schwencke, was the principal of North Palm Beach Properties for approximately 10 years until he passed away in 2008. I became the principal officer in North Palm Beach Properties, Inc. at that time and have served in that capacity since his death.
3. Prior to 2008, North Palm Beach Properties sold a number of interests in portions of the C-17 canal - sometimes for as little as \$1,000, and sometimes for as much as \$75,000 (twice). In addition, at times, property was leased, instead of being sold.
4. Over the course of many decades, North Palm Beach Properties was requested to grant permission to adjacent property owners to construct boat docks, etc. on its C-17

Canal property. This permission was granted in almost all instances. However, on occasion, a request would be denied.

5. On at least 2 occasions I was contacted by the Village of North Palm Beach regarding code violations occurring on the upland portion of the C-17 canal, whereby adjacent property owners had left junk automobiles and/or non sea worthy boats or other items on the property.
6. At the time of my brother's death, the ownership in North Palm Beach Properties was vested in the three (3) remaining Schwencke children.
7. My sister, Christine Schwencke Sams and I continued to pay the taxes on the C-17 Canal land but at some point we made a conscious decision to divest North Palm Beach Properties' assets so as to not leave this legacy to our children who have no knowledge of the history of North Palm Beach Properties and it's past dealings.
8. Since 2016 we have made approximately nine (9) sales ranging in price from \$27,500-\$500,000.
9. NPB Properties has been actively disposing of property within the C-17 Canal since 2006 and the total of the sales approaching two dozen properties.

FURTHER AFFFIANT SAYETH NAUGHT.



Kim M. Schwencke

STATE OF FLORIDA
COUNTY OF PALM BEACH

SWORN TO AND SUBSCRIBED before me this 9th day of November, 2018, by Kim M. Schwencke, who is previously known to me or who has produced _____ as identification.

Marian E. Freund



SIGNATURE OF NOTARY

MARIANNE SAUNDERS
PRINTED NAME OF NOTARY

NOT A CERTIFIED COPY